

REMARKS/ARGUMENTS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

Claims 1 - 25 are now pending.

Attached is a Form PTO-1449 listing the two U.S. Patent documents discussed on page 1 of the specification.

The Rule 17(p) Official Fee required by Rule 97(c) in lieu of certification is filed herewith. Should that fee be missing or inadequate, please charge the deficiency to our Deposit Account No. 03-3975 under Order No. 2018-812.

This Information Disclosure Statement is intended to be in full compliance with the rules, but should the Examiner find any part of its required content to have been omitted, prompt notice to that effect is earnestly solicited, along with additional time under Rule 97(f), to enable Applicant to comply fully.

Consideration of the foregoing and enclosures plus the return of a copy of the herewith Form PTO-1449 with the Examiner's initials in the left column per MPEP 609.

In the August 3, 2004 Official Action, claims 1, 2, 4, 5-7, 11-13 and 15-21 were rejected under 35 USC 102(b) as being anticipated by Nagata et al. Applicant respectfully traverses this rejection.

Anticipation under Section 102 of the Patent Act requires that a prior art reference disclose every claim element of the claimed invention. See, e.g., Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1574 (Fed. Cir. 1986). While other references may be used to interpret an allegedly anticipating reference, anticipation must be found in a single reference. See, e.g., Studiengesellschaft Kohle, G.m.b.H. v. Dart Indus., Inc., 726 F.2d 724, 726-27 (Fed. Cir. 1984). The absence of

any element of the claim from the cited reference negates anticipation. See, e.g., Structural Rubber Prods. Co. v. Park Rubber Co., 749 F.2d 707, 715 (Fed. Cir. 1984). Anticipation is not shown even if the differences between the claims and the prior art reference are insubstantial and the missing elements could be supplied by the knowledge of one skilled in the art. See, e.g., Structural Rubber Prods., 749 F.2d at 716-17.

Original claim 1 provided that the fuel feed apparatus of the invention comprised a sub-tank, a pump module, and at least one supporting member that has resiliency and supports the fuel pump in cooperation with the sub-tank at a location which is above the suction filter in the vertical direction. Claim 1 has been amended above to recite even more specifically that each supporting member includes a plurality of arm sections which are separated from one another in a circumferential direction. In the embodiment illustrated in Figure 2, a support member having two arm sections 64 is illustrated. In the embodiment of Figure 4a, the support member is illustrated as having three arm sections. With the construction recited in claim 1, vibration can be more effectively damped than with other prior art assemblies.

The Examiner characterizes Nagata as disclosing a fuel feed apparatus comprising a sub-tank 205, a pump module and at least one supporting member 255,205c which supports the fuel pump 209, referring to Figure 6.

It is respectfully submitted, however, that the so-called supporting member 205c of Nagata is a lid which covers the sub-tank and continuously extends along the entire peripheral wall of the sub-tank. Note in this regard column 11, line 39-47 which describes support 205c as a closure covering the upper open end of the sub-tank 205. Although Nagata teaches a spring 250, spring 250 is disclosed as disposed between support 205c and retaining plate 264 to bias the sub-tank downwardly with the force of 2 to 7 kilograms to prevent floating and vibration of the sub-tank 205. As such it is clear that Nagata does not anticipate the structure recited in claim 1 including a

supporting member having a plurality of arm sections which are connected to the sub-tank and are spaced from one another in a circumferential direction. Moreover, cover 205c of Nagata evidently does not provide resiliency because separate component 250 is included to provide resiliency. Thus, a supporting member having a structure as claimed and having resiliency and a supporting function as claimed is not anticipated by nor obvious from Nagata.

In view of the foregoing, reconsideration and withdrawal of the rejection based on Nagata is solicited.

Claims 3 and 8 were rejected as unpatentable over Nagata in view of Takahashi et al. Applicant respectfully traverses this rejection.

These claims are submitted to be patentable over Nagata for the reasons advanced above. Even if Nagata were modified in view of Takahashi as suggested by the Examiner in connection with the suction filter structure, the invention as recited in amended claim 1 would still not be anticipated by nor obvious.

Applicant notes with appreciation the Examiner's indication that claims 9, 10, 12 and 14 contain allowable subject matter. New claim 22 corresponds to original claim 9 presented in independent form. Further, new independent claims 24 and 25 respectively correspond to claims 12 and 14 rewritten in independent form. It is therefore respectfully submitted that new claims 22, 24 and 25 and new dependent claim 23 should all now be allowed.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early Notice to that effect is earnestly solicited.

EBIHARA et al.
Appl. No. 10/722,541
October 19, 2004

Respectfully submitted,

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